

**Industrial Development Authority
Of the City of Lexington, VA**

Tuesday, October 14, 2014, 5:00 PM

Mann, Vita, Elrod Law Office, 15 E. Nelson St., Lexington

1. Call to Order
2. Election of Officers
3. [Approval of Minutes of May 28, 2014 meeting *](#)
4. [Consideration of Certificate of Completion for R E Lee Properties, LLC *](#)
5. [Consideration of a Subordination of Deed of Trust for R E Lee Properties, LLC *](#)
6. Adjourn

*indicates attachment

MINUTES

WED., May 28, 2014, 5:00 PM

**INDUSTRIAL DEVELOPMENT AUTHORITY (IDA)
OF THE CITY OF LEXINGTON, VA
CITY HALL**

Presiding: Michael Murphy, Chair

Members Present: John DeVogt
Buddy Derrick
Anna-Lisa Fitzgerald
James Joyner
Dan Vance

Staff: T. Jon Ellestad, Secretary
Atty. Larry Mann

Public: 0

The meeting was called to order by Chairman Murphy at 5:00 PM.

Approval of November 18, 2013 Minutes

A motion was made by Mr. DeVogt to approve the minutes of the November 18, 2013 meeting. The motion was seconded by Mr. Joyner and approved unanimously.

Memorandum of Agreement with Virginia Horse Center

Mr. Ellestad outlined the history of the request from the VA Horse Center Foundation for an additional 1% lodging tax with the proceeds to be used for their debt service and capital maintenance. He reported that the City Council had approved the tax increase at their May 15, 2014 meeting, as well as the Memorandum of Agreement outlining the parameters of the conditions for such a grant. Mr. Derrick indicated that he would recuse himself from the Authority's discussion, since he is a member of the Horse Center Board and that he could answer questions on behalf of the Horse Center. There was much discussion over the details of this agreement and how the City and Authority would be protected from potential abuse. It was suggested that the IDA be included in paragraphs B, E, and I. A motion was made by Mr. DeVogt, which was seconded by Mr. Joyner to approve the MOA presented, with the addition of the IDA in paragraphs B, E, and I. The motion was approved on a 5-0 vote with Mr. Derrick abstaining.

Authority Accounting Procedures

Mr. Ellestad outlined an alternative method of keeping the Authority's accounts with the City by creating a separate fund for their assets. This would simplify the handling of transactions, provide better financial reporting to the Authority and eliminate a separate auditing expense. The Finance Director would need to be appointed as the Authority's Treasurer for this to occur. A motion was made by Mr. Vance and seconded by Mr. Derrick to transfer all the Authority's funds to a separate City account and appoint the City's Finance Director as the Treasurer. The motion passed unanimously.

Certificate of Partial Satisfaction for the R. E. Lee Properties, LLC

Mr. Ellestad presented the request from R. E. Lee Properties, LLC for a certificate of partial satisfaction from the Authority's \$150,000 deed of trust on this project. This is needed so that they may close on the

sale of one of the three condominium units. Mr. Ellestad indicated that the developer was close to meeting all the conditions of the incentive agreement, which would eliminate the deed of trust. Mr. Mann indicated that the developer was willing to make a \$10,000 advance payment on the parking lot property in consideration for this certificate. Mr. Vance made a motion to approve the certificate of partial satisfaction based on the \$10,000 consideration for the parking lot. The motion was seconded by Ms. Fitzgerald and approved unanimously. The Authority adjourned the meeting to the R. E. Lee Hotel for a tour of the project.

The meeting adjourned at 7:10 PM.

_____, Acting Secretary
T. Jon Ellestad, IDA Secretary

The real estate affected is **28-1-1-188B**

VA.CODE Section 55-66.3 to 55-66.7

CERTIFICATE AND AFFIDAVIT OF SATISFACTION

Place of record: Clerk's Office of the Circuit Court of ROCKBRIDGE County, Virginia.

Date of Deed of Trust: August 5, 2011

Instrument Number: 110002334

Name(s) of Grantor(s)/Maker(s): Robert E. Lee Properties, L.L.C.

Name(s) of Trustee(s): Laurence A. Mann and J. Steven Grist

Amounts and Total of Note(s): \$150,000.00

I/WE CERTIFY that the note(s) secured by the deed of trust, mortgage or other lien described above has/have been paid in full to the person entitled and authorized to receive the same, and the lien therein created and retained is hereby released.

Given under my/our hand(s) this _____ day of October, 2014, pursuant to proper authority.

**THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY
OF LEXINGTON**, Noteholder

By: _____

Title: _____

COMMONWEALTH OF VIRGINIA,
CITY/COUNTY OF _____:

Subscribed, sworn to and acknowledged before me this _____ day of October, 2014, by

(NAME AND TITLE)

as authorized agent for the Industrial Development Authority of the City of Lexington.

My commission expires:_____.

Notary Registration Number: _____.

Notary Public

This certificate and affidavit of satisfaction was presented, and with the Certificate annexed, admitted to record on _____ (date) at _____ (time).

Clerk's Fees: \$_____ have been paid.

_____, Clerk by _____, Deputy Clerk



Office of the City Manager

September 22, 2014

Ugo Benincasa
1006 Shenandoah Road
Lexington, VA 24450

Dear Ugo:

This is to acknowledge receipt of your certifications of compliance by you and Salvatore Bonifati, as developers of the R. E. Lee Hotel Project, of the conditions of the Performance Agreement with the City of Lexington and City Industrial Development Authority (IDA), dated May 25, 2011. These certifications indicate that you have met all conditions of the agreement. Therefore, the \$150,000 initial loan has been forgiven and the lien placed on the property may be released. Also, the payments toward the \$348,920 grant may be released per terms of the agreement, provided you file with the Commissioner of Revenue, the taxes-generated report on the forms already provided. If you have any questions regarding the payment of this grant or completing the forms, please contact Karen Roundy.

Please note that the terms for the purchase of the Hotel Parking Lot property are still in force and that there is still \$67,000 outstanding on this obligation according to my records. Payment on this sale should be sent to the City of Lexington Industrial Development Authority, in care of Gary Swink, its Treasurer, at P.O. Box 922, Lexington, VA 24450.

Ugo, I would like to personally congratulate you on the marvelous renovation you performed on this building. It is, once again, truly a landmark building in our downtown and will contribute significantly toward the economic vitality of the City. It has been a pleasure working with you.

Sincerely,

T. Jon Ellestad,
Secretary to the IDA

CC: Larry Mann, City Attorney
Karen Roundy, Commissioner of Revenue
Gary Swink, Director of Finance and Treasurer, IDA

TJE/bld



Note to City Manager – Jon Ellestad

- A. Obligation Met noted by City Manager, Jon Ellestad
- B. On September 12, 2014 the Robert E Lee Hotel & Restaurant opened with 39 Rooms, and full service restaurant, and 3 condominiums.
- C. See Attached – Letter from Cornerstone
- D. Quarterly Taxes due to file
- E. See Attached – List of Employees

Certificate of Occupancy - Sept 14, 2014



P.O. Box 1561
Lexington, VA 24450
Phone 540.463.2222
Fax 540.463.1160
www.cornerstonebankva.com

September 19, 2014

Dear Ugo,

I am writing to you per your request to confirm the funds spent towards the rehabilitation of the Robert E. Lee Hotel on Main Street Lexington, Virginia. I can confirm you invested in excess of \$4,000,000.00 in this project.

Congratulations on your completion of the renovations of the hotel. On behalf of CornerStone, I wish you great success and welcome you to the neighborhood.

Very truly yours,



J. Steven Grist
President

9/15/14

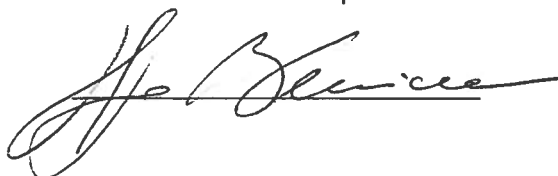
To: John Ellestad, City Manager

The following associates are gainfully employed at the Robert E Lee Hotel. This fulfills the Robert E Lee Properties obligation of proof of employment to the City of Lexington, VA. If you should need any other documentation please do not hesitate to contact Sean Taylor at 540.461.8484.

<u>Employee</u>	<u>Class</u>
Bedwell, Frances	RE Lee Hotel
Buford, Leroy	RE Lee Hotel:REL-Kitchen Staff
Davis, Katherine M	RE Lee Hotel:REL-Front Desk
Forte, Nadia C	RE Lee Hotel:REL HOTEL-Waitstaff
Higson, Jonathan	RE Lee Hotel:REL HOTEL-Waitstaff
Hinrichs, Michael R	RE Lee Hotel:REL-Kitchen Staff
Hull, Kevin C	RE Lee Hotel:REL-Kitchen Staff
Kinney, Amber D	RE Lee Hotel:REL HOTEL - Housekeeping
Reid, Roxanna T	RE Lee Hotel:REL HOTEL - Housekeeping
Smith, Jody D	RE Lee Hotel:REL HOTEL - Housekeeping
Talaber, Denise C	RE Lee Hotel:REL-Front Desk
Thurston, Billy Jo	RE Lee Hotel:REL-Front Desk
Ward, Nora L	RE Lee Hotel:REL-Front Desk
Whitesell, Kiana T	RE Lee Hotel:REL-Kitchen Staff
Wilkins, Dana J	RE Lee Hotel:REL HOTEL - Housekeeping
Blackwood, Crystal	RE Lee Hotel:REL HOTEL-Waitstaff
Bowser, Erin N	RE Lee Hotel:REL HOTEL-Waitstaff
Cooper, Tequila	RE Lee Hotel:REL HOTEL-Waitstaff
Hall, Hannah	RE Lee Hotel:REL HOTEL-Waitstaff
Kirk, Stephanie	RE Lee Hotel:REL HOTEL - Housekeeping
Richmond, Dana	RE Lee Hotel:REL HOTEL-Waitstaff
Schulthies, Tristan	RE Lee Hotel:REL HOTEL-Waitstaff
Taylor, Christine	RE Lee Hotel:REL HOTEL-Waitstaff
Trent, Bailey M	RE Lee Hotel:REL-Front Desk
Bailee Bluemel	RE Lee Hotel:REL-Front Desk
Aimee Crouse	RE Lee Hotel:REL-Front Desk
Greg Matherly	RE Lee Hotel:REL-Food & Beverage
Natalia Consereous	RE Lee Hotel:REL- Marketing
Caroline Oliveria	RE Lee Hotel:REL-Sales
Sean Taylor	RE Lee Hotel:REL-Admin

Sean Taylor
General Manager

Ugo Bennicasa
Owner of Robert E Properties





Office of the City Manager

July 24, 2014

Ugo Benencasa
1006 Shenandoah Rd
Lexington, VA 24450

Dear Ugo:

Now that your project for the R. E. Lee Building is nearing completion, I am writing to you to outline the steps that you will need to follow for the Industrial Development Authority (IDA) to "forgive" the \$150,000 initial loan on your project and to initiate the \$348,920 economic development grant. These obligations are defined in Section 6 of the Performance Agreement dated May 25, 2011.

The following is a listing of the obligations you have, as the developer, and the Authority's expectations for complying with such.

- A. Provide the IDA and the City, within 12 months of closing on the Hotel property, sufficient documentation, as determined by the IDA and the City, establishing that Developer has the right, authority, and financial ability to develop the Property as contemplated by this Agreement and to operate a hotel and restaurant on such Property, including but not limited to a non-contingent financial agreement with a recognized lender and life insurance in at least the amount of \$250,000.00 on his life with the City listed a loss payee until final payment of Grant has been made. ***This obligation has been met.***
- B. Within 42 months after the date of this Agreement, complete the renovation of the Hotel with at least 35 Hotel Rooms, a full service restaurant on the second floor, the top floor to be renovated into either hotel rooms or condominium apartments, together. Furthermore, within such 42 month time period, Developer shall obtain a permanent certificate of occupancy for the Facility, and the Facility will be open to the public for business. ***I will need a letter from you certifying the number of hotel rooms and condominium units, the date of the permanent certificate of occupancy for the full building, and the date that the hotel and restaurant are open for business.***
- C. Within 42 months after the date of this agreement, Developer will have spent or caused to have been spent at least \$2.5 million on the development of the Facility. The \$2.5 million shall be exclusive of the cost of the Properties. The Developer shall provide the documentation provided to any lender to induce said lender(s) to commit to lend Developer at least \$2.5 million for construction, together with copies of all lien waivers and draw requests provided to the lender(s) from the date of this Agreement through the completion of construction of the

Facility. Any personal financial information of Ugo Benincasa and Salvatore Bonifati required by Lender shall be excluded from this requirement to disclose. ***Documentation has already been met for the minimum \$2.5 million construction financing. I would only need a statement indicating that in excess of \$2.5 million has been spent on the development of the property, exclusive of the purchase price.***

- D. Developer shall file all appropriate and applicable real estate tax and other tax forms or notices with the city, ensure it has received assessments from the City for such taxes, and Developer shall pay all such taxes to the City and not claim any exemptions from real estate taxes or other taxes for any periods of time for which Grant funds are requested. Developer shall also ensure that the owner of the Property and any entity that may operate and/or manage the Facility, if different than developer and/or Company, also complies with all the obligations of this Section and any other applicable provisions of this Agreement. ***This obligation will be certified by the Commissioner of the Revenue upon the receipt of quarterly reports, provided on the forms provided by the Commissioner of the taxes paid by the project.***
- E. Developer shall confirm that at least 30 new jobs have been created with the opening of the Hotel and restaurant which may be part time or full time positions. Developer shall provide sufficient documentation to establish to the reasonable satisfaction of the IDA and the City of developer's compliance with the obligations set forth in this subparagraph. ***Upon opening of the hotel and restaurant, I would like a listing of the part-time and full-time positions created by this project.***

If upon your opening you could provide me with a letter providing the assurances requested for conditions B, C, and E, I will initiate a letter indicating that the \$150,000 loan has been forgiven and authorizing the initiation of payment on the economic development grant.

Ugo, I cannot convey to you enough my pleasure at seeing your project near completion. It was a long, difficult process to pull this together, but the results have been even more than anticipated. It is clear to me that you were the right person to make the City's goal of having a premium hotel property in the middle of the downtown a reality. We look forward to the R. E. Lee being a backbone for the future economic prosperity of our historic core. I am proud that the City could play a small part in the realization of this dream.

Sincerely,



T. Jon Ellestad, City Manager
Lexington, VA

JEllestad@lexingtonva.gov

TJE/bld

The real estate affected is 28-1-1-188B

VA.CODE Section 55-66.3 to 55-66.7

CERTIFICATE OF PARTIAL SATISFACTION

Place of record: CIRCUIT COURT OF ROCKBRIDGE COUNTY, VIRGINIA

Date of Deed of Trust: August 5, 2011

Deed of Trust Instrument Number: 110002334

Name(s) of Grantor(s): Robert E. Lee Properties, L.L.C.

Name(s) of Trustee(s): Laurence A. Mann and J. Steven Grist

Brief Description of Property to be Released: All those premises comprising a Condominium Unit in Robert E. Lee Condominium, located in the City of Lexington, Virginia, together with all appurtenances, rights and privileges thereunto belonging, including but not limited to the Common Elements of said Condominium, pursuant to the Declaration Of Condominium Covenants, Restrictions and Easements, Robert E. Lee Condominium, dated the 14th day of November 2013, of record in the Clerk's Office of the Circuit Court of Rockbridge County, Virginia, as Instrument Number 130003908, shown and described as "SUITE B, ±1,226 sq. ft.", on that certain plat, dated February 21, 2013, revised July 5, 2013, prepared by Farris P. Hotchkiss, L.S., entitled "Exhibit "D" Sixth Floor Robert E. Lee Hotel", which plat is of record in the Clerk's Office aforesaid attached to Instrument Number 130003908.

Maker(s) of Notes(s): Robert E. Lee Properties, L.L.C.

Date of Note(s): August 5, 2011

Face Amount of Note(s): \$150,000.00

The lien of the above-mentioned deed of trust securing the above-mentioned note is hereby released only insofar as the same is applicable to the real estate described above and in all other respects shall remain in full force and effect.

The undersigned is the legal holder of the evidence of debt secured by the said deed of trust.

Given under my/our hand(s) this 29th day of May, 2014, pursuant to duly authorized authority.

THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF
LEXINGTON, Noteholder

By: T. Jon Ellestad

Title: Secretary

COMMONWEALTH OF VIRGINIA

CITY/COUNTY OF Lexington, Virginia

Subscribed, sworn to and acknowledged before me this 29th day of May, 2014,
by T. Jon Ellestad, Secretary (NAME AND TITLE) AS
authorized agent for the Industrial Development Authority of the City of Lexington.

My commission expires: Nov. 30, 2017

Notary Registration Number: 7553159

Brenda Lynn Doyle
Notary Public



Copy for Jon's IDA file

Prepared by return to: Spencer & Taylor, PLC401
Lime Kiln Rd.
Lexington, VA 24450

Tax Map No. 23-1-188A

SUBORDINATION AGREEMENT

THIS SUBORDINATION AGREEMENT, made and entered into this ____ day of October, 2014, by and between **The Industrial Development Authority of the City of Lexington**, party of the first part ("Noteholder"); and **Robert E. Lee Properties, LLC**, a Virginia limited liability company, party of the second part ("Borrower") .

**** WITNESSETH ****

WHEREAS, by Deed of Trust dated August 5, 2011, recorded in the Office of the Clerk of the Circuit Court of Rockbridge County, Virginia, as Instrument Nos. 110002333, the parties of the second part conveyed to the Trustee for the parties of the first part, in trust, to secure a Note of even date therewith, in the amount of Eighty-three Thousand Three Hundred and 00/100 Dollars (\$83,300.00), payable to the party of the first part, conditioned as set forth in the aforesaid deed of trust, the following described real property, to-wit:

Tax Map No. 23 1 188A

All of that certain parcel of land with all improvements thereon, rights and appurtenances thereunto appertaining, containing 0.1259 acre, more or less, fronting on Main Street and extending to Randolph Street, designated as "NEW PARCEL 0.1259 AC." on 'Plat Showing Survey for Rockbridge County, Virginia, City of Lexington, Virginia', dated October 18, 2004, revised February 2, 2005, made by Woodrow W. Perkins, LS, recorded in the Clerk's Office of the Circuit Court for Rockbridge County in Plat Cabinet 3, Slide 592, and shown upon the land records of the City of Lexington as Tax Map No. 23-1-188A.

This being the same as that acquired by Robert E. Lee Properties, LLC, a Virginia limited liability company, by Deed dated July 29, 2011, from the Industrial Development Authority of the City of Lexington, an Industrial Development Authority organized under Chapter 49 of the Code of Virginia, and of record in the said Clerk's Office as Instrument No. 110002329; and

WHEREAS, the Deed of Trust constitutes a valid second lien on said property; and

WHEREAS, by Deed of Trust dated October ___, 2014, the parties of the second part conveyed said property to J. Steven Grist and David J. Hansen, in trust, to secure a certain Deed of Trust Note of even date in the amount of Five Hundred Thousand and 00/100 Dollars (\$500,000.00) payable to CornerStone Bank, N.A., Lender, and desires that the Lien of the Deed of Trust, dated August 5, 2011, recorded as Instrument No. 110002333, be subordinated as

hereinafter set forth.

NOW, THEREFORE, in consideration of the premises and the sum of Ten Dollars (\$10.00) cash in hand paid, the receipt of which is hereby acknowledged, the said parties of the first part, holders of the Eighty-three Thousand Three Hundred Dollar (\$83,300.00) Note, secured by Deed of Trust, do hereby agree that the lien of the Deed of Trust, dated August 5, 2011, recorded as aforesaid as Instrument No. 110002333, be and the same hereby are, subordinated to the lien of the Deed of Trust dated October _____, 2014, to J. Steven Grist and David J. Hansen, Trustee(s), recorded in the aforesaid Clerk's Office as Instrument No. _____ but in all other respects the Deeds of Trust subordinated hereby shall remain in full force and effect.

WITNESS the following signatures and seals:

**The Industrial Development Authority of the City
of Lexington**

By: _____

Name: _____

Title: _____

STATE OF VIRGINIA AT LARGE

CITY OF LEXINGTON, to-wit:

The foregoing instrument was acknowledged before me this _____ day of October, 2014,
by _____ (Name/Title)
of the Industrial Development Authority of the City of Lexington.

My Commission expires: _____

My Registration number: _____

Notary Public

Robert E. Lee Properties, LLC

By: _____
Ugo Benincasa, Member

STATE OF VIRGINIA AT LARGE
CITY OF LEXINGTON, to-wit:

The foregoing instrument was acknowledged before me this _____ day of October 2014,
by Ugo Benincasa, Member of Robert E. Lee Properties, LLC

My Commission expires: _____

My Registration number: _____

Notary Public